



# **Georgia EPD Proposed Rule Revisions to Implement the GHG Tailoring Rule and the Costs to States and Regulated Sources**

# Federal Tailoring Rule



31514

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## ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 70, and 71

[EPA-HQ-OAR-2009-0517; FRL-9152-8]

RIN 2060-AP86

### Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule

**AGENCY:** Environmental Protection  
Agency (EPA).

**ACTION:** Final rule.

the programs. EPA is relieving these resource burdens by phasing in the applicability of these programs to GHG sources, starting with the largest GHG emitters. This rule establishes two initial steps of the phase-in. The rule also commits the agency to take certain actions on future steps addressing smaller sources, but excludes certain smaller sources from PSD and title V permitting for GHG emissions until at least April 30, 2016.

**DATES:** This action is effective on August 2, 2010.

**ADDRESSES:** EPA has established a

Avenue, Northwest, Washin  
The Public Reading Room is  
8:30 a.m. to 4:30 p.m., Mon  
Friday, excluding legal holi  
telephone number for the Pu  
Reading Room is (202) 566-  
the telephone number for th  
Docket Center is (202) 566-

**FOR FURTHER INFORMATION CO**  
Joseph Mangino, Air Quality  
Division, Office of Air Quali  
and Standards (C504-03),  
Environmental Protection A  
Research Triangle Park, NC  
telephone number: (919) 54-

published in Federal Register June 3, 2010

# Changes to Federal PSD Rule



- 40 CFR 52.21(b), “Definitions,” is amended:
  - By adding paragraph (b)(49);
  - By revising paragraph (b)(50)(iv); and
  - By adding paragraph (b)(50)(v).

# Proposed Changes to Georgia PSD Rule

adoption of 40 CFR 52.21(b), by reference



(7) Prevention of Significant Deterioration of Air Quality.

(a) General Requirements.

**removed  
language**

**added  
language**

1. The provisions of paragraph (7) shall apply to any source and the owner or operator of any source subject to any requirement under 40 Code of Federal Regulations (hereinafter, CFR), Part 52.21 ~~as amended~~. The subparagraphs of Paragraph (7) that incorporate by reference paragraphs of 40 CFR, Part 52.21 are as amended through June 3, 2010, unless otherwise specified.

2. Definitions: For the purpose of this paragraph, 40 CFR, Part 52.21 (b) as amended, is hereby incorporated by reference with the following exceptions:

# Proposed Changes to Georgia PSD Rule

adoption of 40 CFR 52.21(b), by reference



(7) Prevention of Significant Deterioration of Air Quality.

(a) General Requirements.

**existing  
language**

1. The provisions of paragraph (7) shall apply to any source and the owner or operator of any source subject to any requirement under 40 Code of Federal Regulations (hereinafter, CFR), Part 52.21 ~~as amended~~. The subparagraphs of Paragraph (7) that incorporate by reference paragraphs of 40 CFR, Part 52.21 are as amended through June 3, 2010, unless otherwise specified.

2. Definitions: For the purpose of this paragraph, 40 CFR, Part 52.21 (b) as amended, is hereby incorporated by reference with the following exceptions:

# Proposed Changes to Georgia PSD Rule

adoption of 40 CFR 52.21(b), by reference



(7) Prevention of Significant Deterioration of Air Quality.

(a) General Requirements.

**existing  
language**

1. The provisions of paragraph (7) shall apply to any source and the owner or operator of any source subject to any requirement under 40 Code of Federal Regulations (hereinafter, CFR), Part 52.21 ~~as amended~~. The subparagraphs of Paragraph (7) that incorporate by reference paragraphs of 40 CFR, Part 52.21 are as amended through June 3, 2010, unless otherwise specified.

2. Definitions: For the purpose of this paragraph, 40 CFR, Part 52.21 (b) as amended, is hereby incorporated by reference with the following exceptions:

# Proposed Changes to Georgia PSD Rule

Georgia revision to definition of “subject to regulation.”



(iv) The definition and use of the term “subject to regulation” in 40 CFR, Part 52.21, as amended June 3, 2010, is hereby incorporated by reference; provided, however, that in the event all or any portion of 40 CFR, Part 52.21 containing that term is:

(I) declared or adjudged to be invalid or unconstitutional or stayed by the United States Court of Appeals for the Eleventh Circuit or for the District of Columbia Circuit; or

**new exception**

# Proposed Changes to Georgia PSD Rule



Georgia revision to definition of “subject to regulation.” (cont.)

(II) withdrawn, repealed, revoked or otherwise rendered of no force and effect by the United States Environmental Protection Agency, Congress, or Presidential Executive Order.

Such action shall render the regulation as incorporated herein, or that portion thereof that may be affected by such action, as invalid, void, stayed, or otherwise without force and effect for purposes of this rule upon the date such action becomes final and effective; provided, further, that such declaration, adjudication, stay, or other action described herein shall not affect the remaining portions, if any, of the regulation as incorporated herein, which shall remain of full force and effect as if such portion so declared or adjudged invalid or unconstitutional or stayed or otherwise invalidated or effected were not originally a part of this rule. The Board declares that it would have incorporated the remaining parts of the federal regulation if it had known that such portion thereof would be declared or adjudged invalid or unconstitutional or stayed or otherwise rendered of no force and effect;



# Changes to Federal Title V Rule



- Section 70.2 is amended:
  - By revising the introductory text of paragraph (2) of the definition for “major source”
    - Simply inserted “subject to regulation” into the definition for “major source”
  - By adding a definition for “Subject to regulation”

# Proposed Changes to Georgia Title V Rule



(10) Title V Operating Permits.

(a) General Requirements.

...

**added  
language**

4. Definitions: For the purpose of this Section (10), 40 CFR Part 70.2 as amended on June 3, 2010, is hereby incorporated and adopted by reference, with the following exception(s):

...

**existing  
language**

# Proposed Changes to Georgia Title V Rule



Georgia revision to definition of “subject to regulation.”

(iii) The definition and use of the term “subject to regulation” in 40 CFR, Part 70.2, as amended June 3, 2010, is hereby incorporated by reference; provided, however, that in the event all or any portion of 40 CFR, Part 70.2 containing that term is:

(I) declared or adjudged to be invalid or unconstitutional or stayed by the United States Court of Appeals for the Eleventh Circuit or for the District of Columbia Circuit; or

**new exception**

# Proposed Changes to Georgia Title V Rule



Georgia revision to definition of “subject to regulation” (cont.)

(II) withdrawn, repealed, revoked, or otherwise rendered of no force and effect by the United States Environmental Protection Agency, Congress, or Presidential Executive Order.

Such action shall render the regulation as incorporated herein, or that portion thereof that may be affected by such action as invalid, void, stayed, or otherwise without force and effect for purposes of this rule upon the date such action becomes final and effective; provided, further, that such declaration, adjudication, stay, or other action described herein, shall not affect the remaining portions, if any, of the regulation as incorporated herein, which shall remain of full force and effect as if such portion so declared or adjudged invalid or unconstitutional or stayed or otherwise invalidated or effected were not originally a part of this rule. The Board declares that it would have incorporated the remaining parts of the federal regulation if it had known that such portion hereof would be declared or adjudged invalid or unconstitutional or stayed or otherwise rendered of no force and effect.

# Rulemaking & SIP Schedule



- ← August 24, 2010 – EPD Briefed Environmental Committee of DNR Board
- ← September 19, 2010 – Notice of Propose Rulemaking Published in Atlanta Journal-Constitution
  - ← Published in Other Newspapers Across Georgia on or About Same Date
- ← September 30, 2010 – Proposed Rule Changes Submitted to EPA for incorporation into SIP with Request for Parallel Processing
- ← October 19, 2010 – Public Hearing on Proposed Rule Changes
- ← November 3, 2010 – Re-Proposed to Correct Error & Extend Comment Deadline
- ← November 16, 2010 – Comment Deadline (extended)
- ← ~November, 2010\* – EPA Proposed Approval of SIP Revision
- ← December 7-8, 2010\* – Request Adoption of Rule Change by DNR Board
- ← ~December 13, 2010\* – Final Rule Changes Submitted to EPA for Approval
- ← Prior to January 2, 2011\* – EPA Finalizes Approval of SIP Revision

\*tentative, subject to change

# Corrected Error



- 391-3-1-.03(10)(d)3
  - Original:
    - 3. Compliance Requirements. For the purposes of this section (10), 40 CFR 70.6(c) as amended July 27, 2003, is hereby incorporated and adopted by reference.
  - Corrected:
    - 3. Compliance Requirements. For the purposes of this section (10), 40 CFR 70.6(c) as amended June 27, 2003, is hereby incorporated and adopted by reference.

# Cost to States and Regulated Sources

## U.S. EPA Estimates - Nationwide



- Without Tailoring Rule
  - Additional 6 million sources need Title V permits
  - 82,000 additional PSD permits annually
  - Increased Cost to State Permitting Agencies - \$22 billion
  - Increased Cost to Industry - \$55 billion
- With Tailoring Rule
  - Additional 550 sources (15,000 already permitted) will need a Title V permit
  - 700 permits per year subject to PSD for other pollutants would have to add GHG requirements
  - 900 additional PSD permits annually due solely to GHG
  - Increased Cost to State Permitting Agencies - \$36 million
    - reflects 42% increase over current program
    - Does not include indirect costs such as additional compliance and outreach activity
  - Increased Cost to Industry ~ \$90 million (does not include compliance costs, such as the cost of additional air pollution controls)